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**TO: Economic Support Supervisors
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W-2 Agencies**

**FROM: Amy Mendel-Clemens
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BWP/BIMA OPERATIONS MEMO

No.: 02-72
File: 2601
Date: 12/27/2002

Non W-2 [X] W-2 [X] CC [X]

PRIORITY: High

**SUBJECT: Updated Administrative Rule--DWD 15:
Child Support Cooperation for W-2 and Child Care**

CROSS REFERENCE: W-2 Manual Chapter 2.2.2, 14.2 and 16

EFFECTIVE DATE: Immediately

PURPOSE

This memo outlines the new Administrative Rule DWD 15, *Child Support Cooperation for Wisconsin Works* and provides details of updated policy, procedures and language for W-2 and Child Care agencies.

BACKGROUND

On September 1, 2002 a revised Administrative Rule DWD 15: *Child Support Cooperation for Wisconsin Works* went into effect. The previous DWD 15 contains obsolete information on the cooperation requirements and good cause exemptions for custodial parents under the Aid to Families with Dependent Children program. The updated DWD 15 specifies and adds additional details to the cooperation requirements and good cause exemptions for custodial and non-custodial parents under the Wisconsin Works (W-2) program and Wisconsin Shares Child Care Program (CC). The full text of administrative rule DWD 15 can be found at <http://www.legis.state.wi.us/rsb/code/dwd/dwd011.html>.

POLICY

THE NEW DWD 15 RULE

- Defines acts of cooperation for both custodial and non-custodial parents
- Contains updated good cause language for custodial and non-custodial parents
- Provides an extended time frame to claim good cause due to domestic abuse
- Includes updated evidence requirements to support a good cause claim
- Adds the requirements that the Child Support Agency (CSA) be given reasonable notice so it can participate in any fact-findings resulting from a good cause investigation or determination.
- Outlines child support's role in processing fact-finding requests due to a non-cooperation determination

DEFINITION OF COOPERATION

The rule adds detail to the acts of cooperation:

Custodial Parents. A custodial parent must cooperate in any action that is relevant to those purposes including the following:

- Providing verbal information, written information, or other evidence that the custodial parent knows, possesses, or might reasonably obtain or signing an affidavit declaring a lack of information
- Attending interviews and responding to written requests for information by the child support agency.
- Appearing as a witness at hearings or other legal proceedings.
- Attending genetic tests pursuant to judicial or administrative order.
- Paying to the Department or its designee any court-ordered child support payments received.

Non-custodial parents in a W-2 or CC Group. The rule outlines additional details regarding non-custodial parents' cooperation. A non-custodial parent must cooperate in any action that is relevant to those purposes including the following:

- Providing verbal information, written information, or other evidence that the non-custodial parent knows, possesses, or might reasonably obtain.
- Appearing at hearings or other legal proceedings.
- Attending genetic tests pursuant to judicial order.
- Paying court-ordered child support to the Department or its designee.

NOTE ➤ NCPs who volunteer for W-2 services who are not part of a W-2 group follow the established policy in 14.2.0 and 16.7.0 in the W-2 manual.

NON-COOPERATION WITH CHILD SUPPORT

The new rule adds details for reasons CSA may determine someone is not cooperating with child support and also explains CSA's role in fact finding requests due to non-cooperation. The child support agency determines if an individual is not cooperating with child support services. More details regarding the changes are in the full text of administrative rule DWD 15, located at <http://www.legis.state.wi.us/rsb/code/dwd/dwd011.html> .

Financial Employment Planners (FEPs) who need to see additional information about the non-cooperation episode should look in KIDS (Kids Information Data System). If workers do not have Full Inquiry Access (FIQY) to KIDS, and need access to KIDS non-cooperation screens, the FEP can request FIQY access through their Security Officer.

GOOD CAUSE FOR NOT COOPERATING WITH CHILD SUPPORT

The new rule adds additional guidelines for agencies to follow for the good cause exemption, notice, claim and decision.

Good Cause Exemption Reasons. A custodial or non-custodial parent is eligible for an exemption from the cooperation requirements when the W-2 or CC agency determines that any of the following criteria applies:

- Cooperation is reasonably anticipated to result in either physical or emotional harm to the child, including threats of child kidnapping or domestic abuse.
- Cooperation is reasonably anticipated to result in either physical or emotional harm to the parent, including domestic abuse.
- Cooperation with the child support agency would make it more difficult for the individual to escape domestic abuse or unfairly penalize the individual who is or has been victimized by such abuse, or the individual who is at risk of further domestic abuse.
- The child was conceived as a result of incest or sexual assault.
- The parent is considering whether to terminate parental rights and sought the assistance of a public or licensed private social services not more than 3 months ago.
- A petition for the adoption of the child has been filed with a court

Good Cause Notice (DWSW-2018, formerly DES-2018). The W-2 or CC agency must provide a Good Cause Notice form describing the cooperation requirements and the right to good cause as an exception to the cooperation requirements to all W-2 and CC applicants and participants. The notice must be provided to W-2 applicants and participants:

- when they apply for W-2 or CC;
- when a child is added to the W-2 or CC group;
- when a parent leaves the W-2 or CC group;
- at a reapplication/review for continued benefits; and
- if a participant discloses to his or her W-2 or CC worker that the participant is experiencing circumstances that may meet the good cause criteria.

A Good Cause Claim (DWSW-2019, formerly DES-2019). A W-2/CC agency must provide a written good cause claim form to any W-2/CC applicant or participant upon request. An applicant or participant may file a good cause claim with the W-2 agency at any time. Upon receipt of the good cause claim, the W-2 agency must notify the child support agency within 2 days that no further action may be taken until it is determined whether good cause exists.

Good Cause Decision. The W-2/CC agency requires an applicant or participant who requests a good cause exemption to submit at least one document of corroborative evidence and the applicant's or participant's statement specifying the circumstances that the applicant or participant believes will provide sufficient good cause for not cooperating. The statement is usually written on the claim form.

The applicant or participant must submit corroborative evidence to the W-2/CC agency within 20 days from the day the claim was signed. If the good cause claim is based on domestic abuse and no corroborative evidence is currently available, the W-2/CC agency may permit the applicant or participant to submit evidence to the W-2/CC agency within 60 days from the date the claim was signed.

If an individual is cooperating with the W-2/CC agency in furnishing evidence and information to be used in determining the good cause claim and other eligibility criteria are met, W-2/CC benefits may not be denied, delayed, reduced, or discontinued pending the determination of a good cause claim.

Types of Corroborating Evidence. A good cause claim may be corroborated with any of the following types of evidence:

1. Court, medical, criminal, child protective services, social services, psychological, school, or law enforcement records regarding domestic abuse or physical or emotional harm to the parent or child.
2. Medical records or written statements from a mental health professional that pertain to the emotional health history, present emotional health status, or prognosis of the parent or child.
3. Birth certificates, medical records, or law enforcement records that indicate that the child may have been conceived as a result of incest or sexual assault.
4. Court documents or other records that indicate that a petition for the adoption of the child has been filed with a court.
5. A written statement from a public or private social services agency that the parent is being assisted by the agency in deciding whether to terminate parental rights.
6. Written and signed statements from others with knowledge of the circumstances on which the good cause claim is based, including, but not limited to, statements from neighbors, friends, family, or clergy.
7. An identification by the screening process under s. DWD 12.15 as an individual or parent of a child who is or has been a victim of domestic abuse or is at risk of further domestic abuse and the alleged perpetrator is the other parent. (DWD 12.15 has received legislative approval and will be in effect 4/1/03)
8. Any other supporting or corroborative evidence.

W-2/CC Agencies Good Cause Investigation. The W-2/CC agency must investigate any good cause claim based on anticipated harm, including when the claim is credible without corroborative evidence and when corroborative evidence is not available. The W-2/CC agency may investigate any good cause claim when the applicant or participant's statement and corroborative evidence does not provide information to make a determination. The W-2 agency may contact the child support agency in the course of the investigation, but may not contact the individual alleged to have committed acts that are the basis of good cause claim based on domestic abuse, physical or emotional harm, or incest or sexual assault.

Timeline for determination of Good Cause. The W-2/CC agency must determine if good cause exists within 45 days from the date the claim was signed, unless an extension to submit evidence was granted to the applicant or participant or more time is necessary for the W-2/CC agency to obtain evidence. If the W-2/CC agency allowed up to 60 days to submit evidence for a claim of domestic abuse, the agency must determine if good cause exists within 85 days from the date the claim was signed.

Agency Good Cause Decision and Notification. The W-2/CC agency must promptly notify the applicant or participant of the determination and the right to a review of the agency decision. If the W-2/CC agency denies good cause the agency must not proceed with a referral for child support services for 10 days from the date of the notice to the applicant or participant. This allows the applicant or participant the opportunity to withdraw the application, request the case be closed, or request a review of the agency decision.

Reviewing Good Cause Exemptions. The W-2/CC agency reviews good cause exemptions that are based on circumstances subject to change at each re-determination (review) of eligibility or upon new evidence. Good cause determinations based on permanent circumstances do not need to be reviewed. If the W-2 agency determines that good cause for non-cooperation no longer exists, the parent is allowed 10 days before cooperation requirements are imposed to request that the case be closed or request an agency review.

Example: Joanne was granted “good cause” for not cooperating with child support because she was working with Catholic Social Services to complete the adoption process for her son. Joanne met with her FEP three months later to update her employability plan and the FEP inquired about the adoption services. Joanne told the worker she no longer meets with Catholic Social Services because she decided to keep her baby. The FEP reviewed the Good Cause Notice with Joanne and explains that “good cause” no longer exists because of the pending adoption and Joanne has 10 days to file another claim or cooperate with child support.

Example: Ada has a “good cause” exemption due to domestic abuse. She has been fleeing her former partner for the last 6 years. Her former partner is the father of her 8-year old. The FEP does not review the “good cause” claim because of the permanent nature of Ada’s family’s circumstances.

Good Cause Notice And Claim Forms. The Good Cause Notice (DWSW-2018) and Good Cause Claim form (DWSW-2019) are attached and the updated version will be and located on the Forms Repository shortly.

CONTACTS

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Note: Email contacts are preferred. Thank you.